

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 3048



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2016 APR 18 AM 10:43

April 18, 2016

SENSITIVE

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer *ewh/for*
Staff Director

FROM: Patricia C. Orrock *PO/nmc*
Chief Compliance Officer

Debbie Chacona *DC/nmc*
Assistant Staff Director
Reports Analysis Division

BY: *KDP* Kristin D. Roser/Marlene Colucci *MC*
Reports Analysis Division
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2016 February Monthly Report for the Administrative Fine Program

Attached is the name of a political committee and its treasurer who failed to file the 2016 February Monthly Report in accordance with 52 U.S.C. § 30104(a). The February Monthly Report was due on February 20, 2016.

The committee listed in the attached RTB Circulation Report filed the report more than thirty (30) days after the due date (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, this committee should be assessed the civil money penalty highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committee and its treasurer, in his official capacity, listed on the RTB Circulation Report violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the RTB Circulation Report.
2. Send the appropriate letter.

Federal Election Commission

Reason to Believe Circulation Report

2016 FEBRUARY MONTHLY Not Election Sensitive 02/20/2016 P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
3048	C00340083	DEAN FOODS COMPANY POLITICAL ACTION COMMITTEE		EDGAR DEGUJA	\$129,462	0	3/29/2016	Not Filed	\$4,671	\$275

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 3048
Reason To Believe Recommendation -)
2016 February Monthly Report for the)
Administrative Fine Program)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on April 20, 2016, the Commission decided by a vote of 5-1 to take the following actions in AF 3048:

1. Find reason to believe that Dean Foods Company Political Action Committee and Edgar Deguia, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalty would be in the amount of \$275.00.
2. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Ravel, and Weintraub voted affirmatively for the decision. Commissioner Walther dissented.

Attest:

April 21, 2016
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 21, 2016

Edgar Deguia, in official capacity as Treasurer
Dean Foods Company Political Action Committee
2711 North Haskell Avenue, Suite 3400
Dallas, TX 75204

C00340083
AF#: 3048

Dear Mr. Deguia:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a February Monthly Report of Receipts and Disbursements covering the period January 1, 2016 through January 31, 2016. This report shall be filed no later than February 20, 2016. 52 U.S.C. § 30104(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on March 29, 2016, thirty-eight (38) days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109(a)(4). On April 20, 2016, the FEC found that there is reason to believe ("RTB") that Dean Foods Company Political Action Committee and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before February 20, 2016. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$275. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$275 is due within forty (40) days of the finding, or by May 30, 2016, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive

Level of Activity: \$4,671

Number of Days Late: Not Filed (reports not filed within thirty (30) days of the due date are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must include the AF# (found at the top of page 1

under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or May 30, 2016. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Dean Foods Company Political Action Committee and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. You should make payment within 30 days of receipt of this letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**4. Partial Payments**

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

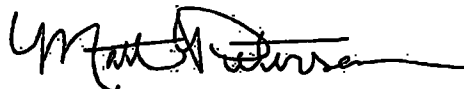
5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Marlene Colucci in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen
Chair

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$275 for the 2016 February Monthly Report. The payment is due within 30 days of receipt of this letter.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Dean Foods Company Political Action Committee

FEC ID#: C00340083

AF#: 3048

PAYMENT DUE DATE: May 30, 2016

PAYMENT AMOUNT DUE: \$275



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2016 SEP 13 AM 8:51

SENSITIVE

September 13, 2016

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *DC/PCO*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: *KDR* Kristin D. Roser/Ben Holly *B.H.*
Reports Analysis Division
Compliance Branch

SUBJECT: Administrative Fine Program – Final Determination Recommendation for the
2016 February Monthly Report

Attached is a list identifying a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file or failure to timely file the 2016 February Monthly Report. The committee has paid the civil money penalty requested at RTB.

In accordance with 11 CFR § 111.34, the Commission shall send a final determination notice to the respondent that has paid the civil money penalty.

RAD Recommendation

- (1) Make a final determination that the political committee and its treasurer, in his official capacity, listed on the attached report violated 52 U.S.C. § 30104(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

Federal Election Commission
FD Circulation Report Fine Paid
2016 FEBRUARY MONTHLY Not Election Sensitive 02/20/2016 P_UNAUTH

9/12/2016 4:09 PM

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Final Money Penalty	Date Paid	Amount Paid
3048	DEAN FOODS COMPANY POLITICAL ACTION COMMITTEE		C00340083	EDGAR DEGUJA	03/29/2016	Not Filed	\$4,671	0	04/20/2016	\$275	\$275	05/02/2016	\$275

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 3048
Administrative Fine Program – Final)
Determination Recommendation for the)
2016 February Monthly Report: Dean)
Foods Company Political Action)
Committee and Edgar Deguia in his)
official capacity as treasurer)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on September 16, 2016, the Commission decided by a vote of 6-0 to take the following actions in AF 3048:

1. Make a final determination that Dean Foods Company Political Action Committee and Edgar Deguia in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess the final civil money penalty in the amount of \$275.
2. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

September 16, 2016
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 19, 2016

Edgar Deguia, in official capacity as Treasurer
Dean Foods Company Political Action Committee
2711 North Haskell Avenue, Suite 3400
Dallas, TX 75204

C00340083

AF#: 3048

Dear Mr. Deguia:

On April 20, 2016, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Dean Foods Company Political Action Committee and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for filing late or failing to file the 2016 February Monthly Report. By letter dated April 21, 2016, the Commission notified you of the RTB finding and the civil money penalty calculated at the RTB stage totaling \$275 in accordance with the schedule of penalties at 11 CFR § 111.43.

On May 2, 2016, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on September 16, 2016 that Dean Foods Company Political Action Committee and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a), assessed a civil money penalty in the amount of \$275 in accordance with 11 CFR § 111.43, and voted to close the file.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 CFR §§ 111.42(b) and 111.20(c), the file will be placed on the public record within thirty (30) days from the date of this notification.

If you have any questions regarding this matter, please contact Ben Holly on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Matthew S. Petersen".

Matthew S. Petersen
Chair

Transaction Detail Results

08/29/2016
12:35 PM ET

Agency: FEC Application: Administrative Fine Program Electronic Payment System

Transaction Information

Pay.gov Tracking ID:
Agency Tracking ID:
Account Holder Name: Dellia Shane White
Transaction Date (ET): 05/02/2016 3:03 PM
Transaction Amount: \$275.00
Email Address: shane.white@deanfoods.com
Address: 2711 North Haskell Ave. Ste. 3400 Dallas TX 75204 USA
Event: Sale
Credit Card Type: Visa
Credit Card Number: [REDACTED]
Expiration: 06/2017

Reversal Reason:
Reversal Status:
Collection Status: Success
AVS Code: Y
Approval Code: 098088
Authorization Response Code: 00
Authorization Response Text:
Card Security Code Result: M
Batch Pay.gov Tracking ID: 75248777
Username: Public

Custom Collection Fields

AF# 3048
Committee Name Dean Foods Company Political Action Committee
FEC ID

